Reply comments of the
New Hampshire ISP Association
PO Box 341
Londonderry, NH 03053

in response to Comments by Verizon in the

Inquiry Concerning the Deploymnent of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such Deployment Pursuant to section 706 of the Telecommunications Act of 1996

CC Docket No. 98-146

Verizon's lawyers have labored long, and produced an interpretation, by people who don't understand the technology, of laws written before the technology was even available, hoping to convince the FCC that it's the only legitimate basis for FCC action.

Happily, most other commentors show **some** technical understanding...

Verizon's lawyers go to gerat pains to tell the FCC what the FCC thinks, unfortunately missing entirely the context of the statements they quote. In **this** docket, the FCC must report on actual deployment of "Advanced Telecommunications Capability".

Although several other commentors have suggested improvements in the definition of this term (with which we mostly concur), we're probably stuck with the current definition. We urge you, however, to report the criticisms to Congress and ask Congress to improve on it.

Regardless, we are **not** stuck with the definition of "deployment". A single "T-1" user in an entire zip-code is not "deployment". Clearly, the FCC needs to start collecting information on the actual number of users in each zip code. But even before such data comes in, you can report number of providers with at least one user within each zip-code and give Congress the benefit of the limited statistical analysis which can be derived.

Verizon's lawyers do an admirable job of presenting the "Lizzy Bordon" defense: "I'm just an orphan: you gotta have mercy on me!"

ILECs are hardly, as Verizon's lawyers contend, "new entrants" into broadband: the technology for DSL came out of their laboratories over twenty years ago, and has been in use for "T-1" circuits for well over ten years.

They have merely managed to delay the introduction of this technology to the general public until both the CLECs and the cable companies had opened particular markets. Recently they have begun serious marketing, mostly trying to pick up the customers of the bankrupt CLECs.

Frankly, it is too soon to tell whether in the long run more customers will choose cable modems or DSL: Regardless, that is not your job.

The NHISPA believes that DSL, properly provisioned, would be preferred to cable modems. But it's still not your job to agree or disagree.

It **is** your job to say whether DSL is a necessary part of the solution to reach all Americans. We believe you will find it is.

Verizon's lawyers discuss at great length whether Verizon has an incentive to invest in DSL equipment under the current regulatory structure. The simple fact is, they **are** investing.

The NHISPA cares little whether Verizon invests or not. We have our eyes on the copper pairs that are already there. We know what we could do with those copper pairs, staying entirely within FCC prescribed power levels. If Verizon simply allows us full use of existing copper pairs, we can solve the last-mile part of the deployment problem.

Truth is, there's no need for Verizon to invest in anything. So, we don't need to argue what will or will not incent Verizon. (If we were to try to divine that, the lawyers would be the **last** ones I'd ask.)

Verizon's lawyers ask for total deregulation of the "broadband services" market. But they insist on defining this market in a strange way: as asymmetrical transmission of poorly-defined bandwidth claimed to be "Internet Service" to the customer, with restrictions making the service useless to most small businesses.

To tell truth, NHISPA would be happy to let the phone companies and the cable companies duke it out in that narrow definition of (poor) service. Real Internet Service, with fully routable IP addresses, enabling whatever servers business needs dictate, and backed by telephone support by knowledgable staff, is what the country needs; and that's what we seek to provide.

Verizon's lawyers never say so in exactly those words, but their intent is clear -- they want unregulated monopoly control of all the resources involved in distribution of their so-called "broadband" service; and they want to deny us access to those same resources for the provisioning of our full service. This would be dreadful public policy. And it would be contrary to the express aim of the 1996 Act.

Verizon's lawyers also criticize the FCC for requiring them to give CLECs collocation access to remote terminals. Alcatel (in their comments) tells how this could lead to problems of line-card compatibility, and we must agree with Alcatel that this possibility exists. But we fully support the FCC's intent to give CLECs access to the copper pairs **before** the ILEC applies any processing to them. That much is essential for efficient deployment of advanced services.

Surprisingly, on page 21, the Verizon lawyers let through the correct question: "Do the telephone companies control a bottleneck facility?" (Somehow, the lawyers have convinced themselves the FCC has already answered, "No.")

Quite obviously, the ILECs **do** control a bottleneck facility: the copper pairs which are the only way electrons can find their way to and from the customers. Furthermore, in most cases these copper pairs run along public rights-of-way: thus the public interest in maximizing their use is obvious.

In most cases, the telephone companies also control the bottleneck facility of copper or fibre from the remote facility back to a point where a competitive provider can connect to their own network. These too usually run on public rights-of-way; and the public interest is similarly obvious.

But somehow, these two bottlenecks get lost in the maze of ILEC-defined UNEs, designed to slice bundled services finer and finer and confuse even the most dedicated FCC staffer.

The NHISPA believes the record is clear that "broadband" deployment -- in many parts of the country -- falls way shy of where Congress wants it to be; that progress of deployment in these areas cannot satisfy any reasonable person's idea of "reasonable and timely"; and that the only sure way to accelerate deployment in these areas is to make last-mile copper and middle-mile fibre available to the sorts of innovators that first brought the Internet to the public: the small and mid-sized independent ISPs.

Prepared by
John Leslie, Secretary